

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
DIRECT MEDIA POWER, INC.)	Case No. 16-36934
)	
Debtor.)	Hon. Timothy A. Barnes
)	
)	
DIRECT MEDIA POWER, INC.,)	
)	
Plaintiff,)	Adv. No. _____
)	
v.)	
)	
RADIO ONE, INC.)	
)	
Defendant.)	
)	

COMPLAINT FOR AVOIDANCE OF PREFERENCE

Plaintiff Direct Media Power, Inc. (“DMP” or “Debtor”), the debtor and debtor in possession, by its attorneys, Neal L. Wolf and Tetzlaff Law Offices, LLC, and for its Complaint for Avoidance of Preference (“Complaint”) against Radio One, Inc. (“Radio One” or “Defendant”), alleges as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334.
2. This adversary proceeding is a “core proceeding” within the meaning of 28 U.S.C. § 157(b).
3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested herein are sections 545 and 547 of the Bankruptcy Code, 11 U.S.C. §§ 545(c) and 547, and Bankruptcy Rule 7001(2).

Parties

5. Plaintiff DMP is a corporation organized under the laws of both Illinois and Delaware. Its principle place of business is in Wood Dale, Illinois. DMP sells pay-per-call and advertising campaign broadcasting services at reduced rates through media time or space that it liquidates from radio networks and various other media sources to customers. DMP filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code on November 21, 2016 (the “Petition”).

6. Defendant Radio One is a for-profit corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Silver Spring, Maryland. Under 28 U.S.C. § 1332(c)(1), Radio One is a citizen of both Delaware and Maryland.

Factual Background

7. On or about February 2, 2016, in the United States District Court for the Northern District of Illinois, Eastern Division, Radio One filed a “Complaint For Breach of Contract” (the “Lawsuit”) against DMP. The Lawsuit was designated Case No. 16-cv-01867 and was permanently assigned to the Hon. Virginia M. Kendall (the “District Court”).

8. On or about October 26, 2016, Radio One obtained a default judgment against DMP in the amount of \$1,398,658.58, consisting of a principal award of \$1,363,810.45, attorneys’ fees of \$34,195.00, and \$653.12 in costs.

9. Radio One filed a Citation to Discover Assets on November 10, 2016. The hearing was set for November 21, 2016 at 9:00 a.m.

10. DMP filed the Petition on November 21, 2016 prior to the hearing.

COUNT I – AVOIDANCE OF PREFERENCE

11. Radio One claims that it is a secured creditor of the Debtor, with a lien on all of the Debtor's real and personal property because, within just a few days prior to the commencement of this chapter 11 case, Radio One filed a Citation to Discover Assets in the Lawsuit with the District Court.

12. To the extent that Radio One holds a lien on any real and/or personal property assets of the Debtor, said lien was obtained within 90 days prior to the commencement of this chapter 11 case and while the Debtor was insolvent.

13. To the extent that Radio One holds a lien on any real and/or personal property assets of the Debtor, said lien was acquired for the purpose of securing an antecedent debt owed by the Debtor to Radio One.

14. To the extent that Radio One holds a lien on any real and/or personal property assets of the Debtor, if said lien is not avoided, said lien would enable Radio One to receive more than it would receive if the case were a case under chapter 7 of the Bankruptcy Code, the transfer had not been made, and Radio One received the payment otherwise provided by the provisions of the Bankruptcy Code.

15. To the extent that Radio One holds a lien on any real and/or personal property assets of the Debtor, said lien is subject to avoidance under section 547 of the Bankruptcy Code, and should be avoided under that section.

16. To the extent that Radio One holds a lien on any real and/or personal property assets of the Debtor, said lien is subject to avoidance under section 545(2) of the Bankruptcy Code, and should be avoided under that section.

WHEREFORE, the Debtor is entitled to judgment against Radio One, (1) avoiding any lien Radio One may have in any property of the Debtor, whether real or personal, (2) for the Debtor's costs of this lawsuit, and (3) for such other relief as is just and proper.

Dated: January 17, 2017

Respectfully Submitted,

DIRECT MEDIA POWER, INC.

By: /s/ Neal L. Wolf
One of Its Attorneys

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